

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CAPELLA PHOTONICS, INC.,

Plaintiff,

v.

FUJITSU NETWORK
COMMUNICATIONS, INC.,

Defendant.

Case No. 2:20-cv-00076-JRG

JOINT MOTION TO DISMISS ACTION

Pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure and the terms of a separate agreement, Plaintiff Capella Photonics, Inc. (“Capella”) and Defendant Fujitsu Network Communications, Inc. (“Fujitsu” and together with Capella, the “Parties”) have agreed to settle, adjust and compromise all claims in the above-captioned action. The Parties, therefore, jointly move this Court to dismiss the action with prejudice.

The Parties further move the Court to order that the Parties shall bear their own respective costs and expenses relating to this litigation (including but not limited to attorneys’ and expert fees and expenses).

A proposed Order is filed concurrently herewith.

Dated: July 13, 2021

By: /s/ Charles Everingham IV
Charles Everingham IV
TX State Bar No. 00787447
T. John Ward
TX State Bar No. 20848000
Claire Abernathy Henry
TX State Bar No. 24053063
Andrea L. Fair
TX State Bar No. 24078488
Email: tjw@wsfirm.com
Email: ce@wsfirm.com
Email: claire@wsfirm.com
Email: andrea@wsfirm.com
WARD, SMITH & HILL, PLLC
1507 Bill Owens Parkway
Longview, TX 75604
Telephone: (903) 757-6400
Facsimile: (903) 757-2323

Robert D. Becker (Cal. Bar 160648)
Email: rbecker@manatt.com
Christopher L. Wanger (Cal. Bar 164751)
Email: cwanger@manatt.com
MANATT, PHELPS & PHILLIPS, LLP
1 Embarcadero Center, 30th Floor
San Francisco, CA 94111
Telephone: (415) 291-7400
Facsimile: (415) 291-7474

**Attorneys for Plaintiff,
CAPELLA PHOTONICS, INC.**

By: Nathaniel T. Browand w/permission Charles
Everingham IV
Christopher J. Gaspar
cgaspar@milbank.com
Nathaniel T. Browand
nbrowand@milbank.com
MILBANK LLP
55 Hudson Yards
New York, New York 10001-2163
Telephone: (212) 530-5000

Melissa Smith
State Bar No. 24001351
GILLAM & SMITH LLP

303 S. Washington Avenue
Marshall, Texas 75702
Telephone: (903) 934-8450
melissa@gillamsmithlaw.com

**Attorneys for Defendant
Fujitsu Network Communications, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a). Therefore, this document was served on all counsel who are deemed to have consented to electronic service on this 13th day of July, 2021.

/s/ Charles Everingham IV
Charles Everingham IV

CERTIFICATE OF CONFERENCE

I hereby certify that Plaintiff and Defendant have complied with the meet and confer requirements set forth in Local Rule CV-7(h), and this motion is a joint motion.

/s/ Charles Everingham IV
Charles Everingham IV